.00000IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4033 of 2004
Date of Decision: December 21, 2007

Bakshi Ram .....Petitioner

Versus

State Bank of Patiala and others ....Respondents

Coram: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE MOHINDER PAL

Present: Shri Ravi Badyal, Advocate, for the petitioner.

Shri H.N. Mehtani, Advocate, for the respondents.

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporters or not?

3. Whether the judgment should be reported in the Digest?

HEMANT GUPTA, J.

The petitioner after working as Clerk-cum-Cashier with the respondent-Bank after putting in more than 23 years of service opted for voluntary retirement in terms of the State Bank of Patiala Voluntary Retirement Scheme (for short `the Scheme'). The Scheme was remain to open from 15.2.2001 to 1.3.2001 i.e. the employees could submit their option for voluntary retirement within the aforesaid period. The petitioner submitted his option for voluntary retirement within the said period but on 28.2.2001, sought to withdraw his offer. The offer to seek voluntary retirement was accepted by the Bank as it was the stand of the Bank that once the application for voluntary retirement has been submitted, the same

is irrevocable.

The petitioner earlier filed a Civil Writ Petition No. 4274 of 2001 on 21.3.2001. This Court on 22.3.2001 has passed an order that if the petitioner has not been relieved so far, he shall be allowed to continue in service till further orders. The said writ petition with few other writ petition were allowed by this Court vide the judgment reported as **Mohinder Pal Singh v. Punjab and Sind Bank and others, 2002(2) SLR 716**.

Earlier the Hon'ble Supreme Court has dismissed the appeals filed by the Nationalised Bank vide the judgment reported as **Bank of India and others v. O.P. Swarankar etc. 2003(1) SLR 1,** presumably including the appeal filed by the respondent-Bank. However, IA 1-22/2003 was filed by the Bank to point out that the Scheme framed by the State Bank of India is also applicable to the Scheme framed by the State Bank of Patiala. The said review application was allowed by the Hon'ble Supreme Court on 21.1.2004 vide judgment reported as **Punjab National Bank v. Virender Kumar Goel and others, (2004)2 Supreme Court Cases 193**, the relevant part whereof reads as under:-

> "These applications have been filed by the State Bank of Patiala for clarification/directions. The ground taken in these applications is that State Bank of Patiala is not a nationalised bank. It is hundred per cent a subsidiary of State Bank of India. The VRS Scheme floated by State Bank of Patiala is in pari materia with the scheme floated by State Bank of India. This Court in the judgment

> dated 17.12.2002 allowed the appeals filed by State Bank of India but nothing has been said about the appeals filed by State Bank of Patiala. In the interregnum, a two-Judge Bench of this Court, in which one of us (Sema, J.) was a member, considered the same question in *State Bank of Patiala v. Jagga Singh*, where this Court after considering clause 8 of the Scheme floated by State Bank of Patiala and clause 7 of the Scheme floated by State Bank of India, had held that the Scheme floated by State Bank of Patiala is almost identical to the Scheme floated by State Bank of India. Accordingly, the appeal filed by State Bank of Patiala was allowed. Review petition was also dismissed on 3.12.2003. In view thereof, we clarify that our Direction 2, allowing the appeals filed by State Bank of India, would also include the appeals filed by State Bank of Patiala. In other words, the appeals filed by State Bank of Patiala are allowed in terms of our judgment dated 17.12.2002."

In the earlier writ petition, the petitioner has sought direction to the Bank to permit him to continue in service as he has withdrawn his offer to seek voluntary retirement on 28.2.2001 before any decision on the said application could be taken by the Bank. The petitioner has claimed the following relief in his earlier writ petition:-

"Issue a writ in the nature of Mandamus directing the respondents to allow the petitioner to continue in service until the date of his retirement according to service rules with all consequential benefits and respondents be further directed not to act upon the application for voluntary retirement submitted by the petitioner as the same stands withdrawn before its acceptance being conveyed to the petitioner."

Having heard learned counsel for the parties, we are of the opinion that the present writ petition is not maintainable as earlier writ petition filed by the petitioner stands dismissed. By virtue of the order passed by the Hon'ble Supreme Court in the earlier writ petition, the petitioner has claimed that he has withdrawn his resignation on 28.2.2001 before the same was accepted by the Bank. The present writ petition is also based upon the same plea and on same facts. Once, the earlier writ petition has been dismissed, the petitioner cannot be permitted to reagitate the same issues as were raised in the earlier petition.

Thus, the present writ petition is not maintainable and the same is dismissed.

(HEMANT GUPTA)
JUDGE

December 21, 2007
ds

(MOHINDER PAL)
JUDGE